

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA
Minute Entry

Hearing Information:

Debtor: POTENTIAL DYNAMIX, LLC
Case Number: 2:11-BK-28944-DPC **Chapter:** 11
Date / Time / Room: FRIDAY, APRIL 26, 2013 01:00 PM 6TH FLOOR #601
Bankruptcy Judge: DANIEL P. COLLINS
Courtroom Clerk: RHONDA VAUGHAN
Reporter / ECR: ANDAMO PURVIS

Matter:

EXPEDITED HEARING ON MOTION TO COMPEL AMAZON TO HONOR THE AUTOMATIC STAY AND REQUEST FOR RELATED RELIEF FILED BY SCOTT R. GOLDBERG OF SCHIAN WALKER, P.L.C. ON BEHALF OF TIMOTHY SHAFFER .

R / M #: 244 / 0

Appearances:

SCOTT R. GOLDBERG, ATTORNEY FOR TIMOTHY SHAFFER
JAMES F KAHN, ATTORNEY FOR POTENTIAL DYNAMIX, LLC
RICHARD LORENZEN, ATTORNEY FOR AMAZON
RICHARD CUELLAR, ATTORNEY US TRUSTEE
ANTHONY AUSTIN, ATTORNEY FOR MATTHEW SCHMIDT
PATRICK BARROWCLOUGH, ATTORNEY FOR SELECT DISTRIBUTOR
MICHAEL JONES, ATTORNEY FOR UNSECURED CREDITORS

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Proceedings:

Mr. Goldberg discusses the factors leading up to filing the Motion to Compel. He argues without this contract the Debtor will not be able to reorganize.

Mr. Lorenzen discusses the process Amazon follows when prohibiting products. Mr. Lorenzen argues the banned product is cause to vacate the stay and the inventory issue is separate. He advises there are non-monetary defaults with the contract that cannot be cured.

Mr. Austin argues there is no reason to wait until confirmation to renew this contract.

Mr. Cuellar has not heard any denial on the record that Debtor is selling illegal items and requests testimony be heard that Debtor is not doing so.

Mr. Kahn tells the Court in all of his discussions with Debtor and the Trustee that the very foundation of this plan is going forward with the Amazon platform. He refers the Court to the Exhibit attached to the Supplement.

Mr. Jones advises the committee filed a joinder to the Trustee's Motion and argues it is critical this debtor be allowed to use the Amazon website.

Mr. Barrowclough advises his client supports the Debtor's Motion.

THE COURT CALLS MR. BELLIMO TO THE STAND, THE WITNESS IS SWORN AND EXAMINED BY THE COURT.

IT IS ORDERED DIRECTING MR. SHAFFER TO CONTACT MR. CUELLAR WHO WILL PROVIDE HIM WITH THE EXACT PARAMETERS OF MATTERS TO BE INVESTIGATED. MR. SHAFFER IS TO FILE HIS REPORT BY WEDNESDAY, MAY 1, 2013.

IT IS ORDERED AMAZON IS DIRECTED TO REINSTATE THE EXECUTORY CONTRACT IMMEDIATELY AND FURTHER FINDS THERE WAS A WILLFUL VIOLATION OF THE AUTOMATIC STAY.

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IT IS FURTHER ORDERED DEBTOR SHALL HAVE UNTIL MAY 1, 2013, TO FILE A MOTION TO ASSUME OR REJECT THE EXECUTORY CONTRACT. MR. LORENZEN SHALL HAVE UNTIL MAY 8, 2013, TO FILE HIS RESPONSE. AN INITIAL HEARING ON THE MOTION TO ASSUME OR REJECT IS SET FOR MAY 9, 2013, AT 10:00 A.M.

IT IS ORDERED SETTING A PRELIMINARY HEARING ON THE MOTION FOR STAY RELIEF FILED ON BEHALF OF AMAZON ON MAY 9, 2013, AT 10:00 A.M.